

Response  
Application No. 10/524,756  
Attorney Docket No. 043176

### **AMENDMENTS TO THE DRAWINGS**

The attached replacement sheets of drawings include changes to Figs. 6-9.

In Fig. 6, such figure has been amended such that the data expansion/conversion unit is now designated by the reference element 4C.

In Fig. 7, the second step has been amended to recite “Measured Transmission Time  $T_t(N)$  for Frame  $F(N)$ ” instead of  $T_t(N-1)$ .

In Fig. 8, such figure has been amended to correct the misspelling of the word “from”.

In Fig. 9, such figure has been amended to correct the misspelling of the word “from”, to change the second step of Fig. 9 to recite “Measured Reception Time  $T_{tr}(N-1)$  for Frame  $F(N-1)$ ” and to change the third step of Fig. 9 to recite “Calculate Reception Time  $T_r(N-1)$ /Transmission Time  $T_r(N-1)$ .”

Response  
Application No. 10/524,756  
Attorney Docket No. 043176

### **REMARKS**

Claims 1-12 are pending in the present application. By this Amendment, claims 1, 2, 3 and 6 have each been amended. No new matter has been added. Applicant submits this Amendment is fully responsive to the outstanding Action dated July 23, 2007.

#### **In the Specification:**

The specification stands objected to in item 1 of the Action due to a few minor informalities. It is submitted that the specification has been amended to correct such informalities. Accordingly, withdrawal of this objection is respectfully requested.

#### **Drawings:**

The drawings stand objected to for the specific reasons set forth in items 2 and 3 of the Action.

With regard to the objections set forth in item 2 of the Action, it is submitted that Applicant has amended Fig. 4 such that the Data Expansion Conversion Unit is designated by the reference element 4C and not 4A; corrected the misspelling of the word "form" to "from" in Figs. 8 and 9; amended the second step of Fig. 7 to recite "Measure Transmission Time  $T_t(N)$  for Frame  $F(N)$ ," instead of  $T_t(N-1)$ ; and amended the third step of Fig. 9 to recite "Calculate Reception Time  $T_r(N-1)$ /Transmission Time  $T_r(N-1)$ ."

Response  
Application No. 10/524,756  
Attorney Docket No. 043176

With regard to the objection to the drawings set forth in item 3 of the Action, it is respectfully submitted that the specification has been amended on page 15 to include the descriptive element 4f for the speakers shown in Fig. 6.

**Claim Objections:**

Claims 1, 2, 3 and 6 stand objected to in items 4-6 and 8 of the Action due to minor informalities, respectively. It is submitted that each of these claims have been amended to correct such informalities.

Claim 3 also stands objected to in item 7 of the Action due to the Examiner contention that Fig. 9 fails to show that the reception time  $Tr(N-1)$  is divided by the transmission time  $Tt(N-1)$ . However, Applicant has amended the third step of Fig. 9 to recite "Calculate Reception Time  $Tr(N-1)$ /Transmission Time  $Tt(N-1)$ " and, Applicants believe this overcomes this objection.

In addition, in item 7 of the Action, the Examiner contemplates the situation where the data transmission and reception times increase or decrease but the ratio of data reception time to data transmission time remains the same or one and therefore would fail to reflect an increase or decrease in network congestion. However, even if this situation were to occur, the determined degree of congestion would simply remain the same and no adjustment of the image and sound qualities and/or frame rate would be made. Accordingly, withdrawal of this objection is respectfully requested.

Response  
Application No. 10/524,756  
Attorney Docket No. 043176

**Claim Rejections under 35 U.S.C. §112, Second Paragraph:**

Claims 1-11 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

This rejection is respectfully traversed.

In item 10 of the action, the Examiner contends that the “and/or” language included in claims 1-3 and 7-11 is indefinite since it is unclear whether the data quality and the frame rate is reduced or increased or only one variable is reduced or increased, and if only one variable is changed, which one.

However, it is respectfully submitted that the Examiner’s comments are over-critical, since one of ordinary skill in the art would readily understand that, for example, that if a determination that the degree of congestion of the data circuit has decreased, the next data frame can be transmitted with either an increased picture and sound quality, an increased frame rate or both an increased picture and sound quality and increased frame rate.

In other words, since the degree of congestion has decreased, one of ordinary skill in the art would readily understand that any one of these three choices could be implemented to take advantage of the decrease in congestion of the data circuit.

Further with regard to the Examiner’s comments provided in items 11-13, Applicants have amended claims 1-3 to overcome this rejection.

Accordingly, withdrawal of this rejection is respectfully requested.

Response  
Application No. 10/524,756  
Attorney Docket No. 043176

**As to the Merits:**

As to the merits of this case, the Examiner sets forth the following rejections:

claims 2, 4, 11-12 stand rejected under 35 U.S.C. §102(b) as being anticipated by Yoshinori (JP 2001-094981);

claims 1, 3-5 and 11-12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshinori in view of Barham et al. (US Patent Publication 2004/0003107 A1);

claims 6 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshinori in view of Takahara et al. (US Patent 5,477,542);

claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshinori in view of Barham and in further view of Takahara;

claims 7 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshinori in view of Barham and in further view of Brabson et al. (US Patent Publication 2003/0135638 A1); and

claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshinori in view of Brabson.

Each of these rejections is respectfully traversed.

**Independent Claim 2:**

Claim 2 calls for *said data communications terminal characterized by a data transmission function capable of: transmitting a multiplicity of leading data frames with predetermined image and sound qualities and/or a predetermined frame rate; determining the*

*degree of congestion of said data circuit from a data reception time for the communications terminal receiving frame data to receive the data frame that precede the current data frame by at least one data frame; making a determination that the degree of congestion of said data circuit has increased ... making a determination that the degree of congestion of said data circuit has decreased ... .*

That is, in claim 2, the data communications terminal that transmits the multiplicity of leading data frame also determines the degree of congestion of the data circuit and determines whether the degree of congestion for the data circuit has increased or decreased.

In contrast, in Yoshinori, while the transmitting-side information terminal 10 transmits the encoded image and voice data, the transmitting-side information terminal 10 fails to determine the degree of congestion of the connection circuit as well as fails to determine whether the degree of congestion for the connection circuit 30 has increased or decreased.

Instead, in Yoshinori, the receiving-side information terminal 20 determines the transfer rate and the coding condition generation section 23a, included in the information terminal 20, refers to the determined transfer rate to determine coding conditions from the coding managed table, as discussed in paragraph (0030).

Response

Application No. 10/524,756

Attorney Docket No. 043176

More specifically, in paragraph [0036], Yoshinori discloses:

Next, with reference to a coding condition managed table (TBL), **the receiving-side information terminal 20** is the range which does not exceed the transfer rate of the connected circuit 30, chooses the transfer rate for encoding an image and voice data, and **determines the frame rate and screen size which can be processed as real time in the decryption processing section (decoder) 22 from the transfer rate which performs the coding further.** (Emphasis added.)

As such, it is submitted the applied reference of Yoshinori fails to disclose or fairly suggest the above-noted features of claim 2, since the transmitting-side information terminal 10 of Yoshinori fails to determine the degree of congestion of said data circuit from a data reception time for the communications terminal receiving frame data to receive the data frame that precede the current data frame by at least one data frame; making a determination that the degree of congestion of said data circuit has increased ... making a determination that the degree of congestion of said data circuit has decreased ... .

### **Independent Claims 1 and 3:**

With regard to independent claims 1 and 3, for similar reasons as outlined above with regard to claim 2, it is submitted that the transmitting-side information terminal 10 of Yoshinori fails to determine the degree of congestion of the connection circuit as well as fails to determine whether the degree of congestion for the data circuit has increased or decreased, since such determination is made instead by the receiving-side information terminal 20.

Moreover, it is submitted that the secondary reference of Barham fails to cure the above-noted drawbacks and deficiencies of Yoshinori.

Response

Application No. 10/524,756

Attorney Docket No. 043176

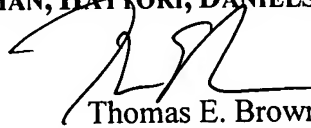
In view of the aforementioned amendments and accompanying remarks, Applicant submits that the claims, as herein amended, are in condition for allowance. Applicant requests such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**



Thomas E. Brown

Attorney for Applicant

Registration No. 44,450

Telephone: (202) 822-1100

Facsimile: (202) 822-1111

TEB/nrp